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May 12, 2008

## VIA ELECTRONIC COMMENT FILING SYSTEM (ECFS)

Marlene H. Dortch, Secretary  
Federal Communications Commission  
Office of the Secretary  
445 Twelfth Street, SW  
Washington, D.C. 20554

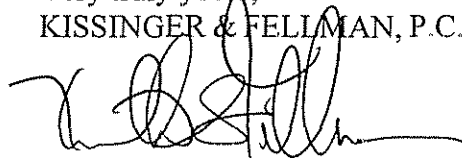
*Re: In the Matter of Petition of Qwest Corporation for Forbearance Pursuant to 47  
U.S.C Section 160(c) in the Denver Metropolitan Statistical Area  
WC Docket No. 07-97*

Dear Ms. Dortch:

Please accept the filing of this AMENDED Ex Parte Comments of the Greater Metro Telecommunications Consortium ("GMTCC"). This amended is to correct for a typographical error found on page 1 of the previously filed Comments and reflects the "...Denver Metropolitan Statistical Area" rather than Minneapolis-St. Paul Minnesota Metropolitan Statistical Area.

Thank you.

Very truly yours,  
KISSINGER & FELLMAN, P.C.



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KSF/eaj  
Enclosure

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

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In the Matter of	)	
Petition of Qwest Corporation for Forbearance	)	
Pursuant to 47 U.S.C. Section 160(c) in the	)	WC Docket No. 07-97
Denver Metropolitan Statistical Area	)	
	)	

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**AMENDED  
Ex Parte Comments of**

**THE GREATER METRO TELECOMMUNICATIONS CONSORTIUM  
("GMTC")**

**INTRODUCTION**

The Greater Metro Telecommunications Consortium ("GMTC") is an intergovernmental agency representing 31 municipalities and counties in the Denver metropolitan area.<sup>1</sup> On April 27, 2007 Qwest Corporation ("Qwest") filed petitions pursuant to 47 U.S.C. Section 160(c) seeking forbearance from regulation in the Denver, Colorado, Minneapolis-St. Paul, Minnesota, Seattle, Washington, and Phoenix, Arizona Metropolitan Statistical Areas ("MSA"). GMTC's comments are limited to opposing Qwest's Petition for Forbearance ("Petition") in the Denver MSA. GMTC submits these comments to document its agreement with a number of other commenters, and specifically the Colorado Public Utilities Commission ("COPUC") and the Colorado Office of Consumer Counsel ("COOCC") that have raised concerns and identified the anti-competitive impact and the harm to consumers that will occur in the Denver MSA if the Petition is granted. Further, Qwest has failed to meet its burden showing that the relief requested is warranted.

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<sup>1</sup> The GMTC jurisdictions represent a combined population of approximately 2.42 million people.

## DISCUSSION

Qwest's Petition seeks relief from: (1) the loop and transport unbundled network element ("UNE") obligations of Section 251(c) of the Telecommunications Act of 1996 ("Act"); (2) its regional Bell Operating Company obligations under Section 271(c)(2)(B)(ii) of the Act; (3) the dominant carrier tariff requirements in Part 61 of the FCC's rules; (4) the price cap regulations under Part 61; (5) the Computer III Inquiry requirements related to efficient interconnection and open network architecture; and (6) the dominant carrier requirements arising under Section 214 of the Act and Part 63 of the FCC's rules regarding the acquisition of lines, discontinuation of services and transfers of control.

GMTC believes that there is insufficient competition in the Denver MSA to justify the regulatory relief that Qwest seeks. GMTC specifically urges the Commission to give great weight to the COPUC comments<sup>2</sup> and the COOCC comments<sup>3</sup>. As the state agency addressing regulatory issues relating to Qwest's operations in Colorado, the COPUC is in the best position to know the facts regarding the competitive landscape in the Denver MSA, and the likely impact to businesses and consumers in this market if regulatory relief is granted. The fact that the COPUC considered substantially similar issues in connection with the deregulatory proceeding under state law just prior to Qwest's filing of this Petition with the Commission, and found that there was not sufficient competition to justify regulatory relief, should not be overlooked by the Commission.<sup>4</sup> Moreover, the COPUC's own recent research discloses a lack of effective competition in the Denver MSA.<sup>5</sup>

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<sup>2</sup> *Comments of the Colorado Public Utilities Commission*, WC Docket No. 07-97 (August 31, 2007)

<sup>3</sup> *Comments of the Colorado Office of Consumer Counsel*, WC Docket No. 07-97 (August 31, 2007)

<sup>4</sup> *Comments of the Colorado Office of Consumer Counsel* at 5-6, WC Docket No. 07-97 (August 31, 2007)

<sup>5</sup> *Comments of the Colorado Public Utilities Commission* at 27-30, WC Docket No. 07-97 (August 31, 2007)

Qwest's Petition for Forbearance is not in the public interest. As the COOCC notes, Qwest's Petition acknowledges what the request for forbearance is really all about – putting Qwest in a position to raise prices.<sup>6</sup>

The Commission must consider factors similar to those considered by the COPUC in addressing Qwest's 2004 request for deregulation in Colorado under state law. Again, as the COOCC points out, the statutory standard in Colorado is a showing of "effective competition in the relevant market for such service" under C.R.S. Sec. 40-15-207(1)(a) and Sec. 40-15-305(1)(a).<sup>7</sup> The majority of the relief requested by Qwest was denied by the COPUC<sup>8</sup>, because Qwest could not demonstrate that effective competition exists. GMTC submits that Qwest has not offered any facts to justify a different outcome today.

The COPUC explains the importance of the competitive landscape, and notes that Qwest has not demonstrated that effective competition exists today. Indeed, the COPUC notes that if we are truly interested in competition, "forbearance is the exact opposite of what is needed in the Denver MSA."<sup>9</sup>

If forbearance is granted, it is more likely than not that prices will rise, and some competitors will leave the market. This decision will damage residential and business consumers, and will negatively impact local governments as well. Local governments are major consumers of telecommunications services. In 2007, it is estimated that GMTC entities spent approximately \$5.33 million on communications services. Approximately \$250,000 of that amount reflects services procured from competitive providers. In the absence of a truly competitive marketplace for communications services, the granting of Qwest's Petition will

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<sup>6</sup> *Comments of the Colorado Office of Consumer Council* at 4, WC Docket No. 07-97 (August 31, 2007)

<sup>7</sup> *Comments of the Colorado Office of Consumer Council* at 5, WC Docket No. 07-97 (August 31, 2007)

<sup>8</sup> *Comments of the Colorado Office of Consumer Council* at 6, n 11, WC Docket No. 07-97 (August 31, 2007)

<sup>9</sup> *Comments of the Colorado Public Utilities Commission* at 8-15, and 16-17, WC Docket No. 07-97 (August 31, 2007)

negatively impact taxpayers and foreclose local government's ability to obtain the benefits of a competitive market place.

Qwest has not demonstrated that real competition exists in this market. Again, as referenced in the COOCC comments, Qwest claims that it faces significant competition in the Denver market from Comcast, yet Comcast has filed an application to discontinue all residential facilities based circuit switched telecommunications services in Colorado.<sup>10</sup> Further, competition has not been growing, it has been shrinking.<sup>11</sup> GMTC also expresses agreement with the Comments of the Minnesota Association of Community Telecommunications Administrators ("MACTA") regarding the problems with comparing cable based competition to Qwest services.<sup>12</sup>

The likelihood of competitive local exchange companies pulling out of the market can have a negative impact on local rights of ways. GMTC communities own a significant amount of public right-of-way. In some communities, rights of ways are nearing capacity with communications, water, sewer, gas and electric facilities installed under the streets. To the extent that competitive providers own some facilities and utilize some of Qwest's network to provide services, the loss of these competitors from the market will require disruption to the rights of way to remove competitor facilities, or abandonment of those facilities in place. To the extent removal is necessary to make available additional space in the rights of way, the work in the rights of way to address these issues can severely disrupt ordinary transportation, business and consumer activities. In circumstances where a local government needs to step up and remove abandoned facilities, this also results in a cost to the taxpayers. Alternatively, some

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<sup>10</sup> *Comments of the Colorado Office of Consumer Council* at 7-8, 22-23, WC Docket No. 07-97 (August 31, 2007)

<sup>11</sup> *Comments of the Colorado Office of Consumer Council* at 18, n 43 and 44, WC Docket No. 07-97 (August 31, 2007)

<sup>12</sup> *Comments of the Minnesota Association of Community Telecommunications Administrators* at 3, WC Docket No. 07-97 (March 21, 2008)

competitive providers may respond to higher prices by installing more of their own networks – again causing negative impacts to local rights of way.

As both the COPUC and COOCC note, Qwest has failed to provide the granular data to accurately evaluate the state of competition in the Denver MSA, and has failed to meet its burden of proof.<sup>13</sup> Qwest did not rebut these claims in its Reply Comments.<sup>14</sup> Qwest has not conclusively shown that that forbearance is justified. To the contrary, the likelihood exists that forbearance will result in less competition, higher prices for services, a variety of increased costs to local governments, and an overall negative impact on residential and business consumers in the Denver MSA. The local governments that comprise the GMTCC join our Colorado state agencies in requesting that the Petition be denied.

Respectfully submitted,

**THE GREATER METRO  
TELECOMMUNICATIONS CONSORTIUM**

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<sup>13</sup> *Comments of the Colorado Public Utilities Commission, supra* , *Reply Comments of the Colorado Office of Consumer Council*, WC Docket No. 07-97 (October 1, 2007)

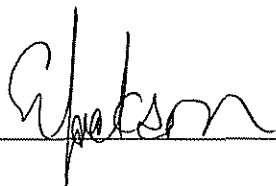
<sup>14</sup> *Reply Comments of the Qwest Corporation*, WC Docket No. 07-97 (October 1, 2007)

## CERTIFICATE OF SERVICE

I hereby certify that on the 12<sup>th</sup> day of May 2008, I served a true and correct copy of the foregoing **Ex Parte Comments of the Greater Metro Telecommunications Consortium** addressed to the following and in the manner specified:

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